

REMARKS

Claims in the case are 1-5, upon entry of this amendment. Claims 1-5 have been amended, and Claims 6-10 have been cancelled without prejudice herein. No claims have been added herein.

The claims have been amended as to form, e.g., by inserting indefinite and definite articles where appropriate, including indentation, replacing "according to" with --of--, and replacing "characterized in that" with --wherein--.

Claim 1 has been amended herein to more clearly present it as a product-by-process claim, in particular by amending the process steps of the wherein clause such that each begins with a gerund. Basis for the addition of the milling and drying step to the wherein clause of Claim 1 is found in original Claim 6, and at page 8, line 27 through page 9, line 15 of the specification. Basis for the addition of the further wherein clause to Claim 1 (relating to the increased bulk density) is found at: page 8, lines 7-10 of the specification; Examples 3 and 4 on page 12 of the specification; and examples 15-18, at page 17, lines 1-9 of the specification.

Claim 4 has been amended herein to include recitation as to the conditions under which the viscosity of the polyacrylamide (c) is determined, basis for which is found at page 7, lines 21-25 of the specification.

Page 1 of the specification has been amended to include cross reference information and to rearrange the section headings. The paragraph at page 3, lines 12-23 of the specification has been amended to remove an inadvertent blank space therein. Line 10 on page 4 of the specification has been amended to include a Detailed Description of the Invention heading.

In the Office Action of 22 November 2004, there is required an election from amongst Claims 1-5 (Group-I) and Claims 6-10 (Group-II). The provisional election of Group 1 (i.e., Claims 1-5) that was previously made for Applicants by Attorney Joseph C. Gil in a telephone conversation with the Examiner on 20 September 2004, is hereby affirmed without traverse. The provisional species election (as to starch ether, starch and guar ether) made for Applicants by Attorney Joseph C. Gil, is hereby affirmed. The claims of non-elected Group-II (i.e., Claims 6-10) have been canceled by amendment herein, and Applicants will take appropriate action relative thereto in due course.

Claims 1-5 stand rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent No. 4,654,085 (Schinski). This rejection is respectfully traversed in light of the amendments herein and the following remarks.

Schinski discloses an additive for cementitious compositions that includes: cellulose ether (e.g., methyl cellulose, and mixed alkyl and hydroxyalkyl derivatives); starch ether (e.g., hydroxyl alkyl starches); and a polyacrylamide (e.g., anion polyacrylamides of acrylamide and acrylic acid salts). See the abstract; column 2, lines 34-48; column 3, lines 37-40; and column 4, lines 1-4 of Schinski.

Schinski discloses combining the three essential components (cellulose ether, starch ether and polyacrylamide) of his additive composition by mixing only. See column 4, lines 37-39 of Schinski. Schinski does disclose, teach or suggest preparing his additive composition by a combination of mixing and milling.

The cellulose ether blends of Applicants' present claims are prepared by means of a combination of mixing and milling. The combination of mixing and milling provides the cellulose ether blends of Applicants' claims with increased bulk density. In particular, the cellulose ether blends of Applicants' present claims have a bulk density of more than 40 g/l greater than the bulk density of a comparative cellulose ether blend prepared by mixing in the absence of milling.

Attention is directed to Examples, 3 and 4, and comparative Example 16 on pages 12, 16 and 17 of the specification. In these examples, comparable methylhydroxyethyl cellulose and starch ether components were used. The cellulose ether blends of Examples 3 and 4 are in accordance with the present invention and were prepared by a combination of mixing and milling. Comparative Example 16 was prepared by mixing only, in the absence of milling. Examples 3 and 4 and Comparative Example 16 include 2 percent by weight of starch ether additive, however, the blend of Comparative Example 16 has a bulk density of only 208 g/l, while the blends of Examples 3 and 4 have bulk densities of 256 g/l and 262 g/l (an average of 259 g/l), (an increase in bulk density of 51 g/l).

Schinski provides no disclosure or suggestion with regard to cellulose ether blends that are prepared by a combination of mixing and milling. In light of the discussion above, Schinski does not disclose, teach or suggest cellulose ether blends having the improved bulk density properties of the cellulose ether blends of

Applicants' claims.

In light of the amendments herein and the preceding remarks, Applicants' claims are deemed to be unanticipated by and patentable over Schinski. Reconsideration and withdrawal of the present rejection is respectfully requested.

Claims 1-5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schinski. This rejection is respectfully traversed with regard to the amendments herein and the following remarks.

Schinski has been discussed previously herein, and discloses an additive for cementitious compositions that includes: cellulose ether (e.g., methyl cellulose and mixed alkyl and hydroxyalkyl derivatives); starch ether (e.g., hydroxyl alkyl starches); and a polyacrylamide (e.g., anion polyacrylamides of acrylamide and acrylic acid salts).

Schinski discloses combining the three essential components (cellulose ether, starch ether and polyacrylamide) of his additive composition by mixing only. See column 4, lines 37-39 of Schinski. Schinski does disclose, teach or suggest preparing his additive composition by a combination of mixing and milling.

The cellulose ether blends of Applicants' present claims are prepared by means of a combination of mixing and milling. The combination of mixing and milling provides the cellulose ether blends of Applicants' claims with increased bulk density. In particular, the cellulose ether blends of Applicants' present claims have a bulk density of more than 40 g/l greater than the bulk density of a comparative cellulose ether blend prepared by mixing in the absence of milling.

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Schinski provides no disclosure or suggestion with regard to cellulose ether blends that are prepared by a combination of mixing and milling. In light of the discussion above, Schinski does not disclose, teach or suggest cellulose ether blends having the improved bulk density properties of the cellulose ether blends of Applicants' claims.

"Even when obviousness is based on a single prior art reference, there must be a showing of a suggestion or motivation to modify the teachings of that reference." *In re Kotzab*, 217 F.3d 1365, 1370, 55 U.S.P.Q.2d 1313 (Fed. Cir. 2000). Modifying "prior art references without evidence of such a suggestion, teaching or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability -- the essence of hindsight." *In re Dembicza*k, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614 (Fed. Cir. 1999) (citations omitted).

In light of the amendments herein and the preceding remarks, Applicants' claims are deemed to be unobvious and patentable over Schinski. Reconsideration and withdrawal of the present rejection is respectfully requested.

In light of the amendments herein and the preceding remarks, Applicants' presently pending claims are deemed to define an invention that is unanticipated, unobvious and hence, patentable. Reconsideration of the rejections and allowance of all of the presently pending claims is respectfully requested.

Respectfully submitted,

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